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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2010-453**

A C C U S A T I O N

13 **EDWIN ANTONIO MENENDEZ**
a.k.a., **EDWIN ANTONIO**
14 **MENENDEZ-CALVO**
a.k.a., **EDWIN ANTONIO CALVO**
15 a.k.a., **EDWIN ANTONIO**
CALVO-MENENDEZ
16 a.k.a., **EDWIN MENENDEZ**
a.k.a., **EDWIN A. CALVO**
17 a.k.a., **EDWIN CALVO**
a.k.a., **EDWIN M. CALVO**
3226 Pozo Drive
Hacienda Heights, CA 91745

18 Registered Nurse License No. 560960

19 Respondent.

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21 Complainant alleges:

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
24 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
25 of Consumer Affairs.

26 2. On or about November 17, 1999, the Board of Registered Nursing (Board) issued
27 Registered Nurse License No. 560960 to Edwin Antonio Menendez, also known as, Edwin
28 Antonio Menendez-Calvo, Edwin Antonio Calvo, Edwin Antonio Calvo-Menendez, Edwin

1 Menendez, Edwin A. Calvo, Edwin Calvo, and Edwin M. Calvo (Respondent). The Registered
2 Nurse License was in full force and effect at all times relevant to the charges brought herein and
3 will expire on September 30, 2011, unless renewed.

4 JURISDICTION

5 3. This Accusation is brought before the Board, under the authority of the following
6 laws. All section references are to the Business and Professions Code unless otherwise indicated.

7 STATUTORY PROVISIONS

8 4. Section 490 states, in pertinent part:

9 "(a) In addition to any other action that a board is permitted to take against a licensee, a
10 board may suspend or revoke a license on the ground that the licensee has been convicted of a
11 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
12 or profession for which the license was issued.

13 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
14 discipline a licensee for conviction of a crime that is independent of the authority granted under
15 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
16 of the business or profession for which the licensee's license was issued.

17 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
18 conviction following a plea of nolo contendere. Any action that a board is permitted to take
19 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
20 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
21 made suspending the imposition of sentence, irrespective of a subsequent order under the
22 provisions of Section 1203.4 of the Penal Code."

23 5. Section 2750 provides, in pertinent part, that the Board may discipline any licensee,
24 including a licensee holding a temporary or an inactive license, for any reason provided in Article
25 3 (commencing with section 2750) of the Nursing Practice Act.

26 6. Section 2761 of the Code states:

27 "The board may take disciplinary action against a certified or licensed nurse or deny an
28 application for a certificate or license for any of the following:

1 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

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3 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
4 functions, and duties of a registered nurse, in which event the record of the conviction shall be
5 conclusive evidence thereof."

6 7. Section 2762 of the Code states:

7 "In addition to other acts constituting unprofessional conduct within the meaning of this
8 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
9 chapter to do any of the following:

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11 "(b) Use any controlled substance as defined in Division 10 (commencing with Section
12 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
13 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
14 himself or herself, any other person, or the public or to the extent that such use impairs his or her
15 ability to conduct with safety to the public the practice authorized by his or her license.

16 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
17 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
18 or the possession of, or falsification of a record pertaining to, the substances described in
19 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
20 thereof."

21 8. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
22 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
23 licensee or to render a decision imposing discipline on the license.

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1 Respondent drove a vehicle while having 0.08% and more, by weight, of alcohol in his blood and
2 while knowing that his driving privilege was suspended or revoked.

3 b. On or about September 22, 2008, after pleading nolo contendere, Respondent was
4 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
5 (driving while having a 0.08% or higher blood alcohol) in the criminal proceeding entitled *The*
6 *People of the State of California v. Edwin Menendez Calvo* (Super. Ct. Los Angeles County,
7 2008, No. 8EA0736601). The Court sentenced Respondent to 13 days in Los Angeles County
8 Jail and placed him on probation for 36 months, with terms and conditions. The circumstances
9 surrounding the conviction are that on or about May 22, 2008, Respondent drove a vehicle while
10 having 0.08% and more, by weight, of alcohol in his blood.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Dangerous Use of Alcohol)**

13 12. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
14 defined in section 2762, subdivision (b), in that on or about October 4, 2008 and May 22, 2008,
15 Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to
16 himself, and the public when he operated a vehicle while having 0.08% and more, by weight, of
17 alcohol in his blood. Complainant refers to, and by this reference incorporates, the allegations set
18 forth above in paragraph 11, subparagraphs (a) and (b), inclusive, as though set forth fully.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Convictions Involving the Consumption of Alcohol)**

21 13. Respondent is subject to disciplinary action under section 2761, subdivision (a), as
22 defined in section 2762, subdivision (c), in that on or about March 24, 2009, and
23 September 22, 2008, Respondent was convicted of crimes involving the consumption of alcohol.
24 Complainant refers to, and by this reference incorporates, the allegations set forth above in
25 paragraph 11, subparagraphs (a) and (b), inclusive, as though set forth fully.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nurse License No. 560960 issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

3/18/10

Louise R. Bailey

LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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